

So Ordered.  
Dated: April 29th, 2016



*Frank L. Kurtz*  
Frank L. Kurtz  
Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF WASHINGTON**

IN RE:

ELITE NURSING, PLLC,

Debtor.

Case No. 15-01106 FLK11

**FINDINGS OF FACT &  
CONCLUSIONS OF LAW RE:  
FINAL APPROVAL OF 1<sup>ST</sup>  
AMENDED DISCLOSURE  
STATEMENT AND  
CONFIRMATION OF 1<sup>ST</sup>  
AMENDED PLAN OF  
REORGANIZATION**

**FINDINGS OF FACT &  
CONCLUSIONS OF LAW**

-1-

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1 This matter came on for hearing on April 25, 2016 on Debtor's request  
2  
3 for final approval of its 1<sup>st</sup> Amended Disclosure Statement ("**Disclosure**  
4 **Statement**") (Docket No. 61) and confirmation of the Debtor's proposed 1<sup>st</sup>  
5  
6 Amended Plan of Reorganization ("**Plan**") (Docket No. 74). The Court has  
7  
8 considered the Declaration of Tami McDaniels as well as any testimony  
9  
10 elicited at the confirmation hearing. Based upon the evidence, the Court  
11  
12 hereby finds and concludes as follows:

13 *I. Findings of Fact*  
14

15 1. The Court has entered an order conditionally approving the  
16  
17 Disclosure Statement (Docket No. 72). In conditionally approving the  
18  
19 Disclosure Statement, the Court found that the Disclosure Statement likely  
20  
21 contained sufficient information and disclosure to allow creditors to make an  
22  
23 informed decision about voting on the Debtor's Plan. No objections to  
24  
25 approval of the Disclosure Statement have been filed since it was  
26  
27 conditionally approved. The Court has re-evaluated the Disclosure Statement  
28  
29 and confirms its finding that the Disclosure Statement contains adequate  
30  
31 information to allow creditors to make an informed decision about voting on  
32  
33 the Debtor's Plan.  
34

  
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1           2.     The Debtor gave proper notice of its Plan and the hearing on  
2  
3 confirmation of the Plan and final approval of the Disclosure Statement to  
4  
5 creditors and parties in interest as required by applicable provisions of  
6  
7 Bankruptcy law and Bankruptcy rules.

8           3.     Class 2 – priority tax claim of the Internal Revenue Service  
9  
10 (“IRS”); and Class 3 – general unsecured claimants were impaired under the  
11  
12 Plan.

13           4.     The Debtor has properly filed the Report of Balloting, indicating  
14  
15 that all ballots received were from Class 3 and all received ballots accepted the  
16  
17 Plan.

18           5.     The Plan has been accepted in writing by the creditors and equity  
19  
20 security holders whose acceptance is required by law.  
21

22           6.     The Plan complies with all provisions of Title 11 of the United  
23  
24 States Code as well as other applicable law.

25           7.     The Plan has been proposed in good faith and not by any means  
26  
27 forbidden by law.  
28

29           8.     All payments made or promised by the Debtor under the Plan for  
30  
31 services or for costs and expenses in, or in connection with, the Plan and  
32



1 incident to the case, have been fully disclosed to the Court and are reasonable  
2 and are hereby approved, or, if to be fixed after confirmation of the Plan, will  
3 be subject to approval of the Court. No party is issuing securities or acquiring  
4 property under the Plan.  
5  
6

7  
8 9. After confirmation of the Plan, Tami McDaniels, who is the sole  
9 member and owner of the Debtor, will continue to serve as the sole member  
10 and owner of the Debtor. Tami McDaniels will continue to manage the  
11 Debtor and receive a salary of \$2,700 every two weeks during the term of the  
12 Plan.  
13  
14  
15

16  
17 10. The retention of Tami McDaniels pursuant to the terms of the  
18 Plan is in the best interests of the Debtor, the Estate and creditors because  
19 current management has demonstrated that they can profitably run the  
20 Debtor's business in a way which is likely to result in Plan payments being  
21 made.  
22  
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25  
26 11. Liquidation of the Debtor would likely result in a shortfall in  
27 payment to the Class 2 claimant, meaning that in a chapter 7 liquidation no  
28 funds would be available for distribution to Class 3 Unsecured creditors.  
29 Under the Plan, Class 3 Unsecured Creditors are receiving payments of one  
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31  
32

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**FINDINGS OF FACT &  
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1 hundred percent (100%) of the principal amount of their allowed claims, with  
2 interest.  
3

4 12. No objections, timely or otherwise, were filed to the confirmation  
5 of the Debtor's Plan.  
6

7 13. With respect to Classes 2 and 3 under the Plan each holder of a  
8 claim in such class has either: (a) accepted the Plan; or (b) will receive greater  
9 distributions under the Plan than if the case were converted to a case under  
10 chapter 7 of the Bankruptcy Code.  
11  
12

13 14. Classes 1 and 4 are unimpaired or not entitled to vote on the Plan.  
14  
15

16 15. Class 2 constitutes the priority tax claims of the Internal Revenue  
17 Service to 11 U.S.C. §507(a)(8). The Plan provides for payment of the  
18 principal amount of the Class 2 claim in regular installments over a period no  
19 greater than five (5) years from the effective date of the Plan. The payments  
20 called for by the Plan will provide Class 2 claimant with a total value, as of the  
21 effective date of the Plan, equal to the allowed principal amount of such claim.  
22  
23 The Plan calls for the payment of interest on such Class 2 claims in the  
24 amount provided for by applicable law. Payments to the Class 2 claimant  
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1 under the Plan are upon terms no less favorable than those to any other non-  
2 priority unsecured creditor.  
3

4 16. The Debtor's operations during the course of the case (as  
5 evidenced by the Debtor's monthly operating statements on file with the  
6 Court), together with the Debtor's projections for post-confirmation payments  
7 contained in the Disclosure Statement demonstrate that confirmation of the  
8 Debtor's plan is not likely to be followed by liquidation or the need for further  
9 financial reorganization.  
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15 17. The Plan provides for the payment of all United States Trustee  
16 fees payable under 28 U.S.C. §1930.  
17  
18

19 18. All payments to insiders during the course of the case have been  
20 disclosed.  
21

22 19. The Effective Date of the Plan is the day that is fourteen (14)  
23 days after the date the order confirming the Plan is entered.  
24  
25

26 20. Substantial Consummation of the Plan will occur upon the first  
27 monthly payment to unsecured creditors being made in accordance with the  
28 terms of the Plan.  
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1 *II. Conclusions of Law*

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3 Based upon the foregoing findings of fact, the pleadings filed in this  
4 case and the testimony provided at the confirmation hearing, the Court  
5 concludes that:  
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7  
8 A. The requirements for confirmation of the Plan imposed by the  
9 Bankruptcy Code, Federal Rules of Bankruptcy Procedure and other  
10 applicable law, including the requirements of 11 U.S.C. §1129 have been met.  
11

12  
13 B. The requirements for approval of the Disclosure Statement  
14 imposed by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and  
15 other applicable law, including the requirements of 11 U.S.C. §1125 have  
16 been met. The Disclosure Statement contains adequate information as  
17 required by 11 U.S.C. §1125.  
18

19  
20 C. The Disclosure Statement should be approved.  
21

22  
23 D. The Plan should be confirmed.  
24

25  
26 E. To the extent that the above entered findings of fact are, in fact,  
27 conclusions of law, such findings are hereby incorporated into these  
28 conclusions of law and should be denominated as such.  
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1 F. The provisions of Chapter 11 have been complied with and the  
2 Plan has been proposed in good faith and not by means forbidden by law.

3  
4 G. Any and all payments for which Bankruptcy Court approval is  
5 required, including authorization required by 11 U.S.C. §§327 and 330, shall  
6 remain subject to Bankruptcy Court approval notwithstanding confirmation of  
7 the Plan.  
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9

10  
11 H. The Debtor has disclosed the identity and affiliations of all parties  
12 who are to serve as officers and directors under the Plan. The Debtor has  
13 disclosed the identity of all insiders who will be paid a salary or consulting  
14 fees under the Plan. The Debtor's disclosures satisfy the requirements of 11  
15 U.S.C. §1129(a)(5).  
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19

20 I. No governmental regulatory commission is required to approve  
21 the Plan or the terms of the Plan.  
22  
23

24 J. The Debtor's Plan satisfies the requirements of 11 U.S.C.  
25 §1129(a)(7) in that an impaired class (Class 3) has accepted the Plan. Each  
26 member of Classes 2 and 3 will receive value, as of the effective date of the  
27 plan, that is not less than the amount such claimant would receive if the  
28 Debtor were liquidated under Chapter 7 of the Bankruptcy Code.  
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1 K. Class 2 – priority tax claim of the Internal Revenue Service  
2 (“IRS”); and Class 3 – general unsecured claimants were impaired under the  
3 Plan. Class 3 has accepted the Plan and Class 2 will receive payments of a  
4 value equal to the allowed principal amount of its claim.  
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7  
8 L. Administrative Claims described by 11 U.S.C. §503(b) and 11  
9 U.S.C. §507(a)(2) are provided for as required by 11 U.S.C. §1129(a)(9).  
10

11 M. Priority Tax Claims of the Internal Revenue Service are provided  
12 for as required by 11 U.S.C. §1129(a)(9)(C) and other applicable law.  
13  
14

15 N. An impaired claim – Class 3 - has accepted the Plan and the Plan  
16 therefore meets the requirements of 11 U.S.C. §1129(a)(10).  
17  
18

19 O. Confirmation of the Plan is not likely to be followed by the  
20 liquidation, or the need for further financial reorganization of the Debtor.  
21

22 P. The Effective Date of the Plan will be the date that is fourteen  
23 (14) days following entry of the order of confirmation.  
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26 Q. Substantial confirmation of the Plan will occur only upon making  
27 the first monthly payment to Class 3 unsecured creditors as required by the  
28 Plan.  
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1 R. Creditors and parties in interest were given notice of the  
2  
3 confirmation hearing and no objections thereto were made, or if made, have  
4  
5 been withdrawn, resolved or overruled.

6 / / / End of Order / / /

7  
8  
9 /s/ Joshua J. Busey  
10 Joshua J. Busey (WSBA 34312)  
11 Bailey & Busey PLLC  
12 Counsel for Elite Nursing, PLLC  
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17 Conclusions of Law - 042116.doc  
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